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Paper 151

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,298

SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
(6,242,469 B1 and 6,284,781 B1),
Junior Party,

v.

GESELLSCHAFT FÜR BIOTECHNOLOGISCHE FORSCHUNG MBH
(09/313,524),
Senior Party.

ENTERED: 12 July 2006

NAGUMO, Administrative Patent Judge.

REDECLARATION - Bd.R. 203(c)

A. Introduction

A panel of the Board has determined that: GBF is not entitled to a patent to certain claims of U.S. application 09/313,524; GBF is accorded benefit for priority for Count 1 of its PCT and German applications; and that the designation of certain GBF and SK claims as corresponding or not corresponding to Count 1 should be changed. (Paper 150.)

1 Accordingly, it is ORDERED that this interference is
2 redeclared as follows (the Count, the inventors and real parties-
3 in-interest remain unchanged):

4 Junior Party: Sloan-Kettering Institute for Cancer Research

5 Involved patents:

6 6,242,469 B1, based on 08/986,025, filed 3 December 1997;
7 and
8 6,284,781 B1, based on 09/691,615, filed 18 October 2000.

9 Accorded benefit:

10 60/055,533, filed 13 August 1997
11 60/047,941, filed 29 May 1997
12 60/047,566, filed 22 May 1997
13 60/033,767, filed 14 January 1997
14 60/032,282, filed 3 December 1996.

15 Senior Party: Gesellschaft für Biotechnologische Forschung
16 mbH

17 Involved application:

18 09/313,524, filed 17 May 1999.

19 Accorded benefit:

20 PCT/EP97/06442, filed 18 November 1997
21 DE 196 47 580.5, filed 18 November 1996.

22 The claims of the parties are:

23 SK 469: 1-22

24 SK 781: 1-37

25 GBF: 1-4, 15, 16, and 18-21

1 The claims of the parties that correspond to Count 1 and
2 that are involved in this interference are:

3 SK 469: 1-13

4 SK 781: 1, 2

5 GBF: 1-4, 15, 16, and 18-21¹.

6 The claims of the parties that do NOT correspond to Count 1
7 and that are NOT involved in this interference are:

8 SK 469: 14-22

9 SK 781: 3-5, 6-23, 24-26, 27-30, 31-33, 34-37

10 GBF: none.

11 FURTHER ORDERED that all times for taking action remain
12 in effect.

13 FURTHER ORDERED that times for taking action in the
14 priority phase will be issued in due course.

15 FURTHER ORDERED that if there is a settlement, the
16 attentions of the parties are directed to 35 U.S.C. § 135(c) and
17 Bd.R. 205.

18) BOARD OF
19	<u>/Mark Nagumo/</u>) PATENT APPEALS
20	MARK NAGUMO) AND
21	Administrative Patent Judge) INTERFERENCES
22		

¹ GBF claims 2, 4, and 19 are not patentable to GBF.

1 cc (via electronic mail):

2 For Gesellschaft fur Biotechnologische Forschung mbH: **Anthony M.**
3 **Zupcic** and **Robert H. Fischer**, FITZPATRICK CELLA HARPER &
4 SCINTO, of New York City, New York.

5 For Sloan-Kettering Institute for Cancer Research: **Richard L.**
6 **DeLucia**, Kenyon & Kenyon, of New York, New York; and **Brenda**
7 **H. Jarrell**, CHOATE, HALL & STEWART, of Boston,
8 Massachusetts.

Townes, Yolunda

From: Townes, Yolunda on behalf of Interference Trial Section
Sent: Wednesday, July 12, 2006 7:43 AM
To: 'Zupcic, Tony (FITZPATRICK CELLA)'; 'Fischer, Robert (FITZPATRICK CELLA)'; 'DeLucia, Richard (KENYON & KENYON)'; 'Jarrell, Brenda (CHOATE HALL)'
Subject: Interference #105298_150 (MN) - Decision-Interlocutory Motions-Bd.R. 125(b) and #105298_151 (MN) - Redeclaration-Bd.R. 203(c)

Decision - Interlocutory Motions - Bd.R. 125(b) / Appendix - Board Exhibits

Redeclaration - Bd.R. 203(c)

7/12/06